

Mark R. Gaylord (#5073)
Melanie J. Vartabedian (#10148)
Tesia N. Stanley, Esq. (#13367)
Scott S. Humphreys (*admitted pro hac vice*)
BALLARD SPAHR LLP
One Utah Center, Suite 800
201 South Main Street
Salt Lake City, Utah 84111-2221
Telephone: (801) 531-3000
Facsimile: (801) 531-3001
gaylord@ballardspahr.com
vartabedianm@ballardspahr.com
stanleyt@ballardspahr.com
humphreys@ballardspahr.com

*Attorneys for Court-Appointed Receiver,
Diane A. Thompson*

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**AMERICAN PENSION SERVICES, INC.,
a Utah Corporation and CURTIS L.
DeYOUNG, an individual,**

Defendants.

**REQUEST TO ENTER ORDER
APPROVING AMENDED MODIFIED
PLAN OF LIQUIDATION**

Case No.: 2:14-CV-00309-RJS-DBP

**Judge Robert J. Shelby
Magistrate Judge Dustin B. Pead**

Diane Thompson, Court-appointed Receiver for American Pension Services, Inc.,
Curtis DeYoung and related entities, by and through her counsel of record Ballard Spahr LLP,
hereby respectfully requests the Court to enter the Order Approving Amended Modified Plan of
Liquidation, a copy of which is attached hereto as **Exhibit 1**.

ARGUMENT

On December 17, 2014, the Court heard oral argument regarding the Proposed Plan of Liquidation [Dkt. 186], as modified [Dkt. 360], presented by the Receiver. During the hearing, the Court made certain findings relating to the Receiver's efforts to formulate, distribute and present the proposed Plan of Liquidation. The Court further instructed the Receiver to make certain modifications to the proposed Plan of Liquidation as a result of the comments and arguments identified in the Client Responses [Dkt. ---], the Receiver's Memo. [Dkt. ---.] and comments received from counsel and/or clients during the hearing.

In accordance with the Court's instructions, the Receiver has prepared an Amended Modified Plan of Liquidation to incorporate the modifications requested to be made as well as concerns raised by clients relating to ambiguities. (*See* **Exhibit 1** attached hereto.) For the Court's convenience, the Receiver attaches as Exhibit 2 a red-lined version of the Amended Modified Plan of Liquidation (without appendix) so that it may review the changes made to the Modified Plan of Liquidation. Many of the changes are merely cosmetic to insure consistency throughout and are not substantive in nature. They also included adding language for clarity, including citations to the record. (*See* Exhibit 2 at 12-13, 16-17, 21.) The Receiver further deleted content that is no longer necessary in terms of implementation of the Plan of Liquidation.

In consultation with the proposed successor custodian/administrator, changes have been made in an effort to provide the APS clients with a road map of the steps that must be taken in order to complete the transfer of their respective IRA and 401(k) accounts to the successor custodian/administrator. The changes include providing further detail relating to the classes of assets between APS and the APS clients (*Id.* at 25); moving and clarifying the method for having one's account revalued as outlined in the Plan (*Id.* at 32-33 and 35-37); reorganizing the manner in which

the Plan will be implemented, which includes allowing deferral of having accounts transferred until the Private Letter Ruling is issued. (Id. at 49-65.) Finally, the changes reflect the Court's direction that distribution of any recoveries will be deferred to a later date along with a determination of the APS creditors' right to participate in the distribution of recoveries made by the Receiver from the sale of assets of the Receivership Defendants.

CONCLUSION

Based on the foregoing, the Receiver respectfully requests the Court to enter the Order Approving Amended Modified Plan of Liquidation which is filed concurrently herewith in accordance with the Local Rules of the United States District Court, District of Utah.

DATED this 16th day of January 2015.

/s/ Mark R. Gaylord

Mark R. Gaylord, Esq.

Melanie J. Vartabedian, Esq.

Tesia N. Stanley, Esq.

Scott S. Humphreys, Esq. (*admitted pro hac vice*)

BALLARD SPAHR LLP

Attorneys for Court-Appointed Receiver, Diane A. Thompson

CERTIFICATE OF SERVICE

I hereby certify that a true and correct of copy of the foregoing **REQUEST TO ENTER APPROVE AMENDED MODIFIED PLAN OF LIQUIDATION** was served to the following this 16th day of January 2015, in the manner set forth below:

[X] U.S. Mail, postage prepaid:

Curtis L. DeYoung
12231 South 1950 East
Draper, UT 84020

[X] Through the CM/ECF System for the U.S. District Court

ahardenbrook@swlaw.com; docket_slc@swlaw.com; jpollard@swlaw.com;
moric@sec.gov; wadleyd@sec.gov; #SLRO-Docket@sec.gov;
dleta@swlaw.com; docket_slc@swlaw.com; wsmart@swlaw.com;
gbh@pkhlawyers.com; dh@pkhlawyers.com; jt@pkhlawyers.com;
john@johnbagleylaw.com; judsonpitts@hotmail.com; judson@wimmerpitts.com;
krw@scmlaw.com; ec@scmlaw.com; intakeclerk@scmlaw.com;
markjgregersen@hotmail.com; feindtp@sec.gov; steve@skclawfirm.com;
saltlakedocketclerk@ballardspahr.com; howe@millertoone.com,
mahoney@millertoone.com; miller@millertoone.com,
mahoney@millertoone.com, miller@ecf.inforuptcy.com,
miller.blaked@gmail.com; gdoctorman@parsonsbehle.com;
ecf@parsonsbehle.com; colemere@wronalawfirm.com;
mortensen@wgdlawfirm.com; jsteed@kmclaw.com, mglauser@kmclaw.com;
curtisdeyoung@outlook.com

Daniel J. Wadley, Esq.
Cheryl M. Mori, Esq.
Paul N. Feindt, Esq.
SECURITIES & EXCHANGE COMMISSION
351 S. West Temple, Suite 6.100
Salt Lake City, UT 84101

Judson T. Pitts, Esq.
WIMMER & PITTS, P.C.
11651 S. Harvest Rain Ave.
South Jordan, UT 84095

George B. Hofmann, IV, Esq.
PARSONS KINGHORN HARRIS
111 E. Broadway 11th Fl.
Salt Lake City, UT 84111

David E. Leta, Esq.
Andrew V. Hardenbrook, Esq.
SNELL & WILMER L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, UT 84101

John P. Bagley, Esq.
BAGLEY LAW, PC
308 East 4500 South, Suite 175
Salt Lake City, UT 84107

Kim R. Wilson, Esq.
SNOW, CHRISTENSEN & MARTINEAU
10 Exchange Place, Eleventh Floor
Post Office Box 45000
Salt Lake City, UT 84145-5000

Mark J. Gregersen, pro se
10 West Broadway, Suite 505
Salt Lake City, UT 84101

Kent A. Jordan
844 N. King St., Unit 10
Wilmington, DE 19801

Stephen K. Christiansen, Esq.
311 South State Street, Suite 250
Salt Lake City, UT 84111

Blake D. Miller, Esq.
Craig H. Howe, Esq.
MILLER TOONE, P.C.
165 South Regent Street
Salt Lake City, UT 84111

Gary E. Doctorman, Esq.
PARSONS BEHLE & LATIMER
201 S. Main Street, Suite 1800
Salt Lake City, UT 84111

Jeffrey T. Colemere, Esq.
WRONA GORDON & DuBOIS, P.S.
11650 South State Street, Suite 103
Draper, UT 84020

Jeffrey D. Steed, Esq.
KIRTON & McCONKIE
50 East South Temple, 4th Floor
P.O. Box 45120
Salt Lake City, UT 84145-0120

/s/ Lori D. Brown